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**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

TN REGULATORY AUTHORITY  
DOCKET ROOM

IN RE: In the Matter of Petition Of Tennessee )  
UNE-P Coalition To Open Contested Case )  
Proceeding To Declare Unbundled Switching ) Docket No. 02-00207  
An Unrestricted Unbundled Network Element )

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**PETITION TO RECONSIDER AND REQUEST FOR ADDITIONAL TIME TO  
RESPOND TO DATA REQUESTS**

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On Monday, September 23, 2002, XO Tennessee, Inc. ("XO") received from the Staff of the Tennessee Regulatory Authority ("TRA") a detailed request for information concerning, among other things, (1) the location and capabilities of XO's switches, (2) the total number of access lines each switch is serving, (3) the total number of customers served by XO, and (4) information about how XO provides service to those customers. The staff asked that the information be provided by Wednesday, Sept. 25, 2002.

As instructed by the Hearing Officer's September 13, 2002, "Order Denying Motion to Hold Proceeding in Abeyance and Granting Motion for Reconsideration or Clarification," the Staff request asks that XO file a "Proprietary Version" of the requested information, which will be available "only to members of the Authority," and a "Redacted Version," which will be provided to the parties of record in this proceeding and, presumably, made a public document. The Redacted Version will contain all the same information as the proprietary version but will not indicate the name, address, or other information identifying XO as the responding carrier.

Based upon information on the TRA's web site, the Staff sent similar requests to three other CLECs: Adelphia, Network Telephone Corp. and Business Telecom, Inc.

XO is in the process of gathering the requested information but cannot do so in two days. XO therefore requests an additional week to respond to the data request.

XO is also extremely concerned about protecting the confidentiality of the requested information. Because the Staff requests were sent only to four carriers and because XO has a larger presence in Tennessee than the other three carriers, XO believes that it is likely that XO could be identified based on the information in the Redacted Version.

This information is highly confidential. If it becomes public, or if it became known by XO's competitors, it could be very damaging to XO. Filing the information in a Redacted Version which contains everything but the name and address of the carrier will not be sufficient, XO submits, to protect the information from public disclosure.

Therefore, XO respectfully asks that the Hearing Officer modify the Sept. 13 Order so as to protect more effectively the confidentiality of the requested data. XO suggests two modifications, neither of which will affect the ability of the Staff and the parties to use the requested information.

First, XO asks that the Staff – as they have done in handling the equally confidential, carriers' monthly wireline reports – assemble the requested data from all responding CLECs, including, where relevant, the responses to discovery produced by the CLECs who are parties in this docket, and provide the collected information in the aggregate to the parties. Filing the information in aggregate form should have no impact on the usefulness of this data. For example, it is not necessary for the parties to know that one CLEC may have two switches in Nashville and another CLEC has only one. What matters is that the responding CLECs, collectively, have three switches in Nashville. Similarly, it is unimportant to know that CLEC A has X access lines in a given area while CLEC B has Y access lines in the same area. As long as the parties have reliable information on the total number of CLEC access lines in that area, the

information can serve its purpose. XO believes that this is the only method which can reasonably insure that the requested information remains confidential.

Some of the data requests, Questions 5-9, ask for information other than numbers. Here too, however, the Staff can readily assemble an aggregated response to the parties. For example, Question 5 asks if the carrier has purchased switching from someone other than BellSouth and, if so, to identify the switching provider. Based on the Proprietary Version data, the Staff could inform the parties how many of the CLECs answered "yes" or "no" and then list the switching providers.

While XO appreciates that this process will draw on Staff resources, XO would also note that (1) this is the same process used to protect the confidentiality of access line data, and (2) it is critical to XO that carrier-specific information remain confidential.

Finally, XO asks that the aggregate data provided to the parties be deemed confidential and subject to the protective order which was filed in this docket on May 14, 2002. Since XO is not a party to this proceeding, XO is not covered by that Order. Nevertheless, the agency, through the Hearing Officer, can direct that commercially sensitive information shall remain confidential (see T.C.A. § 65-3-109). The best way to accomplish that in this case is to declare that the aggregate responses to the staff data requests should be given the same protection as the confidential information provided by the parties themselves.

In conclusion, XO does not dispute the TRA's power to collect the requested information but asks that the agency take additional steps to prevent anyone outside the agency from obtaining carrier-specific data. XO submits that the two procedures described above will accomplish that goal without making the information any less useful to the parties.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

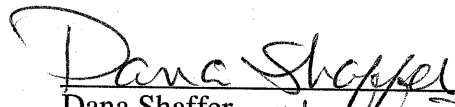
I hereby certify that a true and correct copy of the foregoing has been forwarded via U.S. Mail, postage prepaid, to the following on this the 27th day of September, 2002.

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